

REMARKS

Claims 1-3, 5, 6 and 8-27 are now pending in the application, with claims 1, 5, 8, 10, 11 and 15 being the independent claims. Reconsideration and further examination are respectfully requested.

Initially, Applicant thanks the Examiner for the indication that claims 8 and 15 are allowable and would be allowed if rewritten into independent form to include all of the limitations of the base claim and any intervening claims. This has been done above. Accordingly, claims 8 and 15 are believed to be in condition for allowance.

The other pending claims have been amended above to emphasize certain features that distinguish the present invention from the prior art. Based on those distinctions, and for the reasons set forth in more detail below, the entire application is believed to be in condition for allowance.

In the Office Action, claims 1-3, 6, 7, 9, 11, 14 and 16-19 were rejected under 35 USC § 102(b) over U.S. Patent 5,722,347 (Tominaga); claims 1, 6, 10, 11, 16, 18 and 20 were rejected under 35 USC § 102(b) over U.S. Patent 5,377,623 (Parr); and claims 4, 5, 12 and 13 were rejected under § 103(a) over Tominaga. Withdrawal of these rejections is respectfully requested for the following reasons.

Independent Claim 1

Independent claim 1 has been amended above to recite the limitation that the dock element includes a ramp, in which both the top and bottom surfaces of the ramp bend downwardly with respect to the main portion of the dock element. An exemplary embodiment of this feature of the invention is illustrated by the dock element 14

(consisting of platform 22 and a ramp 24 that is bent downwardly relative to platform 22), shown in Figures 1 and 2 of the Specification. The use of such a downwardly bent ramp is not believed to be disclosed or suggested by the applied art.

In this regard, the Office Action asserts that the portion of the floating island described in Tominaga (i.e., element 6) that slopes downwardly into the water may be considered to be a ramp. However, even assuming that that is the case, the ramp recited in independent claim 1, as amended above, is fundamentally different than the sloped area of Tominaga's island, and this distinction has been clarified in the above claim amendments.

Specifically, by causing the entire ramp (both top and bottom surfaces) to bend downwardly, the present invention provides more flexibility in how the upper surface of the dock element (which can be used by a turtle to crawl out of the water) can be configured. On the other hand, merely using a sloped top surface at the edge of Tominaga's island, while using a flat bottom for the entire island, generally will limit the angle at which the top surface can be sloped and/or the length of the sloped portion. As a result, it may be difficult or impossible to produce Tominaga's island with a ramp having the desired dimensions and slope, at least in any practical embodiment in which the overall dimensions of the island are kept to a reasonable size.

It is noted that the above-referenced feature of the invention has been newly added to independent claim 1 and, therefore, previously has not been considered by the Examiner. However, Applicant has carefully reviewed Tominaga, as well as the other applied art, and is unable to find any suggestion or motivation to incorporate such a

feature into Tominaga's island. Accordingly, independent claim 1, as amended above, is believed to be allowable over the applied art.

Independent Claim 5

Independent claim 5 recites, among other features, that a pair of connected rails is used to allow the dock element to slide up and down. This feature of the invention is not believed to be disclosed or suggested by the applied art.

In this regard, the Office Action acknowledges that Tominaga does not disclose or suggest such a feature, but then goes on to assert that such a feature would have been obvious to one skilled in the art "in order to more securely anchor the rails and the docking element to the aquarium wall and to prevent twisting of the docking element as the animals use the device." However, nothing in Tominaga appears either to indicate that these are problems that need to be solved or to suggest attaching his "supporting rods" together in order to overcome such problems.

MPEP § 2142 requires that in order to establish a prima facie case of obviousness, the Examiner must cite prior art references that teach or suggest all of the claim limitations and, if more than one such reference is required to disclose all such limitations, there must be some suggestion or motivation, either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings.

Here, it is clear that the prior art does not teach or suggest that use of a pair of connected rails is used to allow the dock element to slide up and down. In fact, the only motivation to incorporate such a feature appears to be provided in Applicant's own disclosure, which teachings cannot of course be used to support an assertion of

obviousness. For at least this reason, independent claim 5 is believed to be allowable over the applied art.

Independent Claim 10

Independent claim 10 recites, among other features, that the attachment means for attaching the rail to an aquarium so that the rail runs along an inside surface of a wall of the aquarium includes a hook configured to hook to a top edge of the aquarium. This feature of the invention is not believed to be disclosed or suggested by the applied art.

The Office Action asserts that Parr shows the use of a hook that is configured to hook to a top edge of an aquarium. However, Applicant has studied Parr in detail and is not able to find any such teaching. Rather, Parr is directed to a platform for attachment to a ladder in a swimming pool. It does not seem to say anything at all about aquariums.

Moreover, Parr's device does not slide freely on any rail as a water level varies (as presently recited). Instead, Parr's platform is secured to a swimming pool ladder using a clamp 15. See, e.g., column 1 lines 46-59, column 3 lines 16-19, column 3 lines 29-32, and column 4 lines 18-22. While clamp 15 in Parr's device apparently can be forcibly slid, once positioned it apparently remains stationary. See, e.g., column 3 lines 46-49 (noting the requirement of manual positioning), and column 4 lines 18-22 (emphasizing the use of a frictional grip).

Lacking any teaching of this feature of the invention, much less any suggestion to incorporate such a feature into Tominaga's device, independent claim 10 could not have

been obvious in view of the prior art. Accordingly, claim 10 also is believed to be allowable.

Independent Claim 11

Independent claim 11 recites, among other features, that the support means supports the rail in a manner such that the rail extends into the aquarium from a location outside of the aquarium. One example of such a configuration is illustrated in Figure 3, in which hooks are used to extend the rails into the aquarium. This feature of the invention has been clarified in the claim amendments above.

As noted above, Parr (which was cited as anticipating this claim) does not say anything at all about an aquarium, much less about extending rails into an aquarium from a location outside of the aquarium, and does not even provide a device that slides freely on a rail as a water level varies. Therefore, independent claim 11 clearly could not have been anticipated by Parr.

Dependent Claims

The other claims in the present application depend from the independent claims discussed above, and are therefore believed to be allowable for at least the same reasons. Because each dependent claim also defines an additional aspect of the invention, however, the individual consideration/reconsideration of each on its own merits is respectfully requested.

For instance, newly added dependent claims 22 and 24 recite the additional feature that a selected portion of the dock element is weighted relative to the remainder of the dock element. Newly added dependent claims 23 and 25 further recite that the

selected portion of the dock element is weighted by an embedded weight having a higher mass density than the remainder of the dock element. The prior art has been analyzed in detail and is not believed to disclose or to suggest either of these features of the invention, whether singly or in combination.

§ 112 Rejection

Claims 5 and 12 were rejected under 35 USC § 112, second paragraph, based on an assertion that the phrase, "the second rail is attached to the rail" is unclear. It is noted that claim 12, as amended above recites a "first rail" and a "second rail", while claim 12 retains the original element names of a "rail" and a "second rail". Irrespective of the element names, both claims recite two rails along which the dock element can slide and that the two rails are attached to each other. An example is shown in Figures 1 and 2, in which the vertical rails 36 are attached by a cross rail 37 near their bottom ends. Particularly in view of this example, it is believed that the claim language is entirely clear. However, if the Examiner continues to believe that there is a lack of clarity, additional detail regarding this rejection is respectfully requested.

Conclusion

In order to sufficiently distinguish Applicant's invention from the applied art, the foregoing remarks emphasize several of the differences between the applied art and Applicant's invention. However, no attempt has been made to categorize each unobvious difference. Applicant's invention comprises all of the elements and all of the interrelationships between those elements recited in the claims. It is believed that, for

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each claim, the combination of such elements and interrelationships is not disclosed, taught or suggested by the applied art.

It is therefore believed that all claims in the application are fully in condition for allowance, and an indication to that effect is respectfully requested.

If there are any fees due in connection with the filing of this paper that have not been accounted for in this paper or the accompanying papers, please charge the fees to our Deposit Account No. 13-3735. If an extension of time under 37 C.F.R. 1.136 is required for the filing of this paper and is not accounted for in this paper or the accompanying papers, such an extension is requested and the fee (or any underpayment thereof) should also be charged to our Deposit Account No. 13-3735. A duplicate copy of this page is enclosed for that purpose.

Respectfully submitted,

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